

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

QUERONDE CHAISSON	§	
v.	§	CIVIL ACTION NO. 6:17cv14
MICHAEL UNIT KITCHEN FOOD STAFF, ET AL.	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Queronde Chaisson, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights in the Texas Department of Criminal Justice, Correctional Institutions Division. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

The Defendants were ordered to answer the lawsuit and filed a motion for a more definite statement under Fed. R. Civ. P. 7(a). The motion was granted and Chaisson was ordered to file an amended complaint or more definite statement alleging specific facts and addressing the issue of exhaustion of administrative remedies. Chaisson filed a motion for extension of time to file his more definite statement, which was granted until December 11, 2017.

Instead of filing his more definite statement, however, Chaisson filed a motion stating that he wished to dismiss his lawsuit if prison officials would transfer him off of the Michael Unit. He was subsequently transferred to the Eastham Unit.

The Magistrate Judge issued a Report recommending that Chaisson's motion to dismiss be granted. Chaisson then filed a motion asking for a *Spears* hearing. In this motion, Chaisson stated that he did not wish to dismiss his lawsuit.

The Magistrate Judge thereupon withdrew the Report recommending dismissal on Chaisson's motion and issued a new Report recommending dismissal for failure to prosecute or to obey an order of the Court, inasmuch as Chaisson had never responded to the order directing the filing of a more definite statement or amended complaint. Chaisson received a copy of this Report on July 27, 2018, but filed no objections within the statutory 14-day period set out in 28 U.S.C. §636(b)(1), plus three additional days as provided in Fed. R. Civ. P. 6(f). Accordingly, he is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.") It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 72) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-styled civil action is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute or to obey an order of the Court. It is further

ORDERED that any and all motions which may be pending in this action are hereby **DENIED**.

So **ORDERED** and **SIGNED** this **19** day of **August, 2018**.



Ron Clark, Senior District Judge